The Openness of Local Government Bodies Regulations 2014

These require that officers keep and publish a written record of decisions which are made, either:

a) under a specific express authorisation or

b) under general delegated authority, where the effect of the decision is to

i) grant permission or licence;

ii) affect the rights of an individual; or

iii) award a contract or incur expenditure which, in either case , materially affects the Authority's financial position (£50,000 or over).

Subject of Decision: Changes to Footpath 407055, North of Lanefoot, Ennerdale & Kinniside Paris

Relevant section of Scheme of Delegation

PART 4 - DELEGATION OF FUNCTIONS TO OFFICERS - ANNEX 3 - Functions delegated to Head of Rangers and sub-delegated to a Ranger Team Leader.

Rights of Way and Access Matters - All functions of the Authority under the Highway Acts (whether acting pursuant to its own functions or in pursuance of functions delegated to it by Cumberland Council) except for the making and confirmation of Definitive Map Modification Orders (Wildlife and Countryside Act 1981) and the decision to refer to the Planning Inspectorate of the confirmation of any orders under the Highway Acts where formal substantive representations have been made. "Substantive representations" are those which explain adequately the nature of the concerns and meet the legal considerations defined by the Highways Acts and the Planning Acts.

Background

A footpath was created by agreement in 2001 in order to provide an off-road path for coast-to-coast walkers. It has become apparent that either the exact alignment of the footpath was not mapped correctly, or the users of the path have migrated to a preferred route rather than the precise mapped line. As part of the establishment of the Coast-to-Coast Path, Natural England have asked us to correct this, and align the mapped and walked routes.

Details of Decision

- We realign the section of footpath 407055 between A & D – replacing C-D with A-B through creation and extinguishment orders;
- We realign the section of footpath 407055 between D & E/F – replacing D-E with D-F by way of a diversion order;
- We confirm the orders if no objections are received and maintained;
- We forward the matter to the Secretary of State if non-substantive objections are received and not maintained, or refer the matter to the Rights of Way committee if substantive objections are received.

Details of alternative options considered and rejected

Not making the orders and ensuring the recorded line is used.

Where a decision is made under an express authorisation, names of any Member(s) who have declared a conflict of interest

None

Lead Director	Hanna Latty, Director of Sustainable Development
Author and contact details of report	Nick Thorne, Senior Rights of Way Officer
Background Papers	Case file 1412.407.16
Date of Report	29 September 2026
Authorising officer	Ranger Team Leader
Date	15 October 2026

Changes to Footpath 407055, North of Lanefoot, Ennerdale & Kinniside Parish

Summary

1. A footpath was created by agreement in 2001 in order to provide an off-road path for coast-to-coast walkers. It has become apparent that either the exact alignment of the footpath was not mapped correctly, or the users of the path have migrated to a preferred route rather than the precise mapped line. As part of the establishment of the Coast-to-Coast Path, Natural England have asked us to correct this, and align the mapped and walked routes.

Recommendation/s:

a **We realign the section of footpath 407055 between A & D – replacing C-D with A-B through creation and extinguishment orders;**

b **We realign the section of footpath 407055 between D & E/F – replacing D-E with D-F by way of a diversion order;**

c **We confirm the orders if no objections are received and maintained;**

d **We forward the matter to the Secretary of State if non-substantive objections are received and not maintained, or refer the matter to the Rights of Way committee if substantive objections are received.**

Background

2. Footpath 407055 was formally created in 2001 through creation agreements with the parish council and the National Trust. The creation agreement map is below. The purpose was to provide a roadside path for the popular Coast-to-Coast Path.

3. This has now been made a National Trail. Natural England have tasked us with ensuring that the whole of the trail is underpinned by public rights of way, and we have carried out a number of creation and diversion orders across the National Park to achieve this.

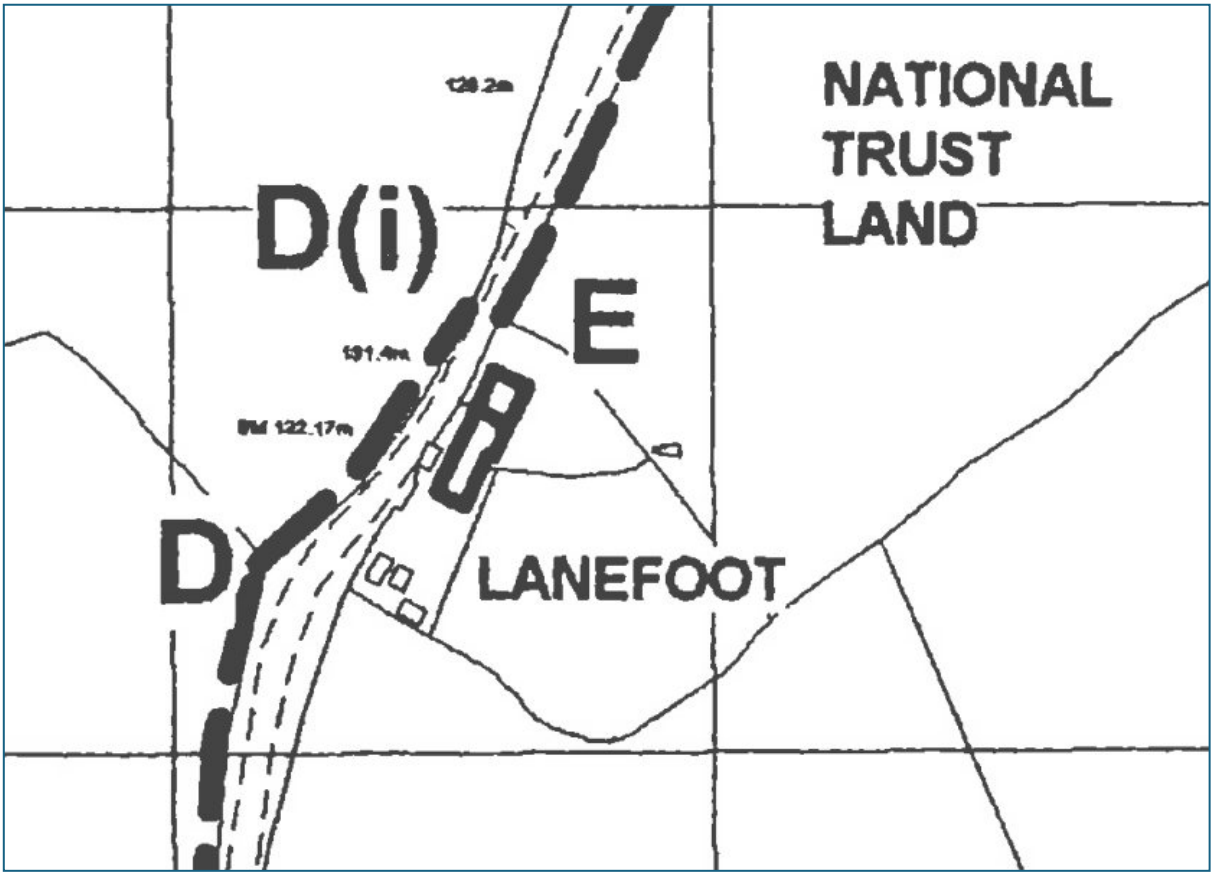
4. One section that they have highlighted is between points E & F on the creation agreement map. It looks as though when we first legally created this

path, we simply drew a line alongside the edge of the road – with the intention that walkers would walk on what is effectively the verge. However, over the intervening 25 years, walkers have basically chosen their own route – and have created a trod that wiggles along through the grassland a little way from the road. This is actually a much nicer path, and the subsequent vegetation growth has created a bit of a buffer from the traffic in places. Indeed, this happened relatively early on, as shown on Google Earth 2003 aerial imagery (indeed, it may always have been the case, and simply poorly mapped).



5. The request from Natural England is that we formally divert that section so that the legal line of the path runs on the wiggly route rather than directly alongside the road. There is one slightly wet patch towards the southern end of the route – and we plan to address this with some minor intervention (it won't be surfaced as such, probably a stepping stone or a small side drain).

6. When we mapped out the new route – we also became aware that where people cross the road at Lanefoot is not between points D(i) and E as shown on the creation plan (below).



7. Instead, people have been walking slightly further south, and crossing there. It can be seen on site that there is a well worn trod, and we have relatively recently replaced the fingerpost on either side of the road. I've roughly shown Point D(i) on the streetview image overlead.

8. Again, this seems to have happened some while ago, as google streetview images from 2008 show the same arrangement (second image overleaf).





9. It seems sensible to take the opportunity to ‘tidy-up’ the situation by removing the public right of way between points C & D on the proposed Order Plan (attached), and creating a public footpath between points A & B.

Other Photographs of Proposal

The definitive line between D & E follows the verge, whereas the proposed line goes through the common (trod can be seen).





Policy context

Links to Vision and Management Plan

10. The key outcome of the Vision for the Lake District National Park 2051 is that the Lake District is deeply valued by the nation as a thriving, working landscape, which is nature and heritage rich, climate resilient, and socially and economically vibrant.

11. The Management Plan contains the policies and actions for achieving the aims of the Vision. One of the nine objectives is to 'Inspire people to understand, enjoy and care for the Lake District', and one of the best ways to achieve this is to have an easy-to-use rights of way network to enable people to explore the landscape, nature and heritage. An aim within the objective is 'Improving and maintaining the rights of way network'.

Links to Business Plan

12. Our Business Plan states what actions will be taken as the National Park Authority plays its part, in partnership with others, in realising the Vision. The core Access & Recreation Action is to deliver the 'improve, maintain, promote and integrate elements' of the 'Out there' Strategy to deliver infrastructure and services which focus on serving under-represented groups (as identified by the 'Lake District for Everyone' Key Outcome Group).

Links to other strategic plans

13. The Ranger Service Plan contains the priorities for our service, including Contributing to World Class Visitor Experiences. This aims to achieve a programme of activity that will implement the adopted Cumbria and the Lake District Access and Recreation Strategy. The development work to establish the Coast-to-Coast Path was a key aim of our Service Plan over the last few years, and this is legacy work to complete the aims of previous years.

14. ‘Out There’ our Access and Recreation Strategy (approved March 2023) contains our vision for countryside access and recreation in the Lake District, which is: *A well connected network fit for purpose in the 21st Century with high quality infrastructure, facilities and services meeting the needs of all visitors and residents.* We have identified four priority themes of work, and under each of these are a series of strategic actions that will contribute to the achievement of our goal and our strategic aims. The four priority themes are:
    - Improve: rights of way and countryside access.
    - Manage and maintain: rights of way, countryside access and recreational activities.
    - Promote and engage: connect more people to nature and the special qualities of the Lake District.
    - Integrate: with health and wellbeing, sustainable transport and the economy.

15. This proposal helps fulfil the basic manage and maintain aim, along with the improve aim – by aligning mapping with reality.

16. Our charging policy was agreed at Authority in August 2006, and the actual charges updated regularly since then.

17. Factors to take into account when determining changes to the network were agreed at Park Management Committee in May 1997 (“Changing the Rights of Way Network: Statement of Policy”), and are listed at Annex 1.

Options

18. The following options are possible:
    a) make the recommended orders;
    b) do not make orders and establish a path that can be used on the precise definitive line.

Proposals

19. I recommend option a for the reasoning set out in the discussion section below. In essence, the proposed crossing point of the road is seemingly where it has always really been, and the wiggly route from D-F is nicer, safer and more attractive than sticking to the verge of the road. Even if we tried to create some sort of trod alongside the tarmac (option b), it is likely that walkers would still prefer to use the route slightly away from the road.

Discussion

Grounds and Tests for Diversion (replacing D-E with D-F)

20. The grounds and tests for a diversion are slightly different at the making and confirmation stage. However, as we have discretion as to whether to make an order in the first place, it would be unwise to ignore something that could prevent an order from being confirmed. Therefore, the issue should be considered in the whole, and the factors to take into account are set out and discussed below. These factors incorporate our own policies on changes to the rights of way network which are set out in annex 1.

21. There are only two grounds for a diversion of a right of way (section 119, Highways Act 1980), namely where it appears to the Authority that it is expedient to do so:

    a. in the interests of the owner, lessee or occupier of the land crossed by the path; OR

    b. in the interests of the public

22. I consider that it is expedient in the interests of the public. D-F runs immediately alongside the road – essentially the verge. Whereas D-F is slightly away from the road traffic, meaning that walkers feel safer, it is slightly quieter, and in places there is a visible shield between walkers and cars. All-in-all it is simply a more pleasant alignment to walk.

Tests to be Considered

23. These are:

- Will the new path be substantially less convenient to the public?
- The effect which the diversion would have on public enjoyment of the path or way as a whole;
- The effect the order would have as respects other land served by the existing right of way;
- The effect of the new right of way on land over which the new path is created;
- That termination of the alternative footpath is on the same or a connected highway, and is substantially as convenient to the public.

Will the new path be substantially less convenient to the public?

24. There is no significant difference in convenience – the proposed alignment is merely parallel to the existing mapped route. Because of it's wiggly nature it is slightly longer – but only by about five metres.

What is the effect of the diversion on public enjoyment of the path or way as a whole?

25. As mentioned above, I consider that the proposed diversion results in a more enjoyable route.

Would the order affect other land served by the existing right of way?

26. No.

Is there any effect of the new right of way on land over which it is created?

27. No – the land is the same parcel of Longmoor Common.

Is the termination of the alternative footpath on the same or a connected highway, and is it as substantially as convenient to the public?

28. The termination point of F is around 10 metres to the east of point E. This is actually more convenient for the vast majority of users of this path, who are heading into Ennerdale Bridge on the Coast-to-Coast Path.

Diversion of C-D to A-B?

29. The proposal to exchange C-D with A-B is effectively a diversion, and so should be looked at in that light. However, there are doubts as to whether a diversion order could legally be made here – as it could be argued that these are two separate rights of way (the footpath does not continue across the carriageway, that is a separate highway). It is legally safer to consider the matter as extinguishing one short section of footpath on the eastern side of the road, and creating a new short section of highway on the western side of the road.

Grounds and Tests for a Creation Order (A-B)

30. There are two questions to consider under Section 26 of the Highways Act, and after taking these into account, we need to decide whether we are satisfied that it is expedient to create a new right of way.

- Is there a need for the new path?
- Is it a good idea to create the new path taking account of;
  - how it will be more convenient or enjoyable for most of the people living locally or other members of the public; and
  - how it will affect the rights of those with an interest in the land

Is there a need for the new path?

31. This needs to be considered along with the overall proposal of the creation replacing the section of exiting recorded public footpath C-D. The whole purpose of this path is to provide a through roadside footpath, and instead of crossing this road at A-C, the proposal is to cross at B-D. So, there is a clear need for a path either A-B or C-D, and we consider that A-B is probably more logical – being the route people have chosen to use, and slightly away from Lanefoot's curtilage.

Will it be more convenient or enjoyable for most of the people living locally or other members of the public?

32. The creation will maintain the convenience and enjoyment of the through route here.

How will it affect the rights of those with an interest in the land?

33. The landowner concerned has agreed to this change, and has effectively said that the path has always run here anyway.

Grounds and Tests for an Extinguishment (C-D)

34. There is only one reason in law for the extinguishment of a right of way (section 118, Highways Act 1980), namely; where it appears to the Authority that it is expedient to stop up (extinguish) the path on the ground that it is not needed for public use. We do not consider there is a need for C-D if the new path is created on the opposite side of the road (A-B).

35. A number of other issues must be considered before confirmation is made, as discussed below.

The extent to which it appears that the path or way would, apart from the order, be likely to be used by the public.

36. The evidence from the public and landowners is that C-D has not been used by the public, as they have used A-B. It is therefore unlikely to be used in the future.

The effect the extinguishment would have on the land crossed by the path.

37. The land is all part of Longmoor Common. C-D forms part of a surfaced driveway to the rear of Lanefoot. The removal of the public footpath is unlikely to have any effect on the land or it's use.

Other Considerations Required by Legislation

38. Before confirming a Public Path Creation or Diversion Order we are required to have regard to any material provision of a Rights of Way Improvement Plan (RoWIP). No RoWIP formally exists now for Westmorland & Furness or Cumberland, so we are effectively considering our own Access & Recreation Strategy to be the LDNPA's RoW improvement plan.
https://www.lakedistrict.gov.uk/__data/assets/pdf_file/0023/59270/Out-there-Access-and-Recreation-Strategy-2023-final.pdf

39. The proposals meet the general aims within the Access & Recreation Strategy (as discussed in the Policy section earlier), in particular the making of orders to reflect match current demand/usage and to suit modern needs (page 12). .

    Limited Mobility - We have a duty to audit the proposals with regard to limited mobility. The proposed path is no less usable than the current alignment.

40. Impact on the needs of agriculture and forestry - assessment required under schedule 6, of the Countryside & Rights of Way Act 2000. The sole grazier of the common let the owners (National Trust) know that he was content with the change, but did mention the existence of marsh fritillary butterflies and expressed a wish that strimming was not carried out. We have no plans to do so anyway, as the vegetation is kept down through usage.

41. We consider landscape impact, biodiversity and archaeological interests and have to conserve biodiversity under the Natural Environment and Rural Communities Act 2006. And under section 11 of the Countryside Act 1968 we have to have regard to the conservation of flora, fauna, and geological and physiographical features and the amenity of the countryside. The proposals do not appear to have any effects on these aspects, with the caveat in the paragraph above.

42. Impacts on Outstanding Universal Values – I have not identified any significant impact on the World heritage Site's OUVs.

Stakeholder consultation

43. We have consulted our usual consultees comprising all the local authorities and relevant user bodies, interested parties, utility companies – along with others whom have requested to be consulted.

Name of stakeholder	Consultation response
LDNPA Member / Parish Councillor	"In my opinion creation of the right of way between points A and B and D and F is fine. I have been in discussion with [the grazier] re some improvements to the rights of way."
Cumbria and Lakes Joint Local Access Forum	"Fully supports these proposals and the realignment of the National Trail."
Ennerdale & Kinniside Parish Council	"Fully Supportive".
Open Spaces Society	"We have previously walked the route and, more recently, viewed it from the Common and the road. In a previous occupation the author of this response worked with the Parish Council to enable the then works for the permissive footpath to be undertaken. The OSS fully supports your proposals for the new definitive line for 407055. We agree the crossing place C-D is appropriate as it gives walkers the clear ability to see, frequently fast, oncoming traffic."
Cumberland Council	As the public have already 'informally approved' the diversion route though usage in preference to the recorded line, it should be easy to argue that the legal test have already been met.

	Furthermore, it makes perfect sense to undertake what is essentially a very modest diversion to marry the legal, historically used and approved route of the Coast to Coast. Cumberland Council supports the proposal.
Natural England (ecology)	I have checked the distance to the protected site, which at its nearest point is roughly 437m from the footpath where the variation is proposed. There is no mechanism for negative effect on the protected site from the proposed change.
Environment Agency	The Environment Agency has no objection to the proposed alteration of footpath from a flood risk perspective. I have copied in my colleagues from the Fisheries Biodiversity and Geomorphology department in case they wish to comment. You mention that there is a “wet patch” which may require minor intervention such as probably a stepping stone or a small side drain. Based on the information provided, your proposed works may require **Ordinary Watercourse Consent** from the relevant Local Authority before any works can commence. An ordinary watercourse is a river, stream, ditch, drain, cut, dyke, sluice or passage through which water flows that is not designated as a Main River. Ordinary Watercourse Consent is typically required for works that may affect the flow of water, including the installation, alteration, or replacement of structures such as culverts, headwalls, outfalls,

	weirs, dams or other obstructions within an ordinary watercourse. [LDNPA Comment – it is a puddle, it will not need consent]. I can confirm that FBG have no concerns regarding this diversion or the proposed works. My only note is that this is within Long Moor County Wildlife Site and that the area at least formally had Marsh fritillary butterflies thus consultation with Cumbria Wildlife Trust is suggested. If associated future surfacing or drainage is considered then we would recommend that the requirements of devil's bit scabious (food plant of marsh fritillary butterflies) and other lowland heathland habitat is taken into account.

Demonstrating best value

Work Programme and Relevance to This Case:

44. This proposal has high priority in our casework, being related to the government led establishment of the Coast-to-Coast Path National Trail.

45. **Challenged –** The **challenge** is for us to achieve our policies without significant financial or staff implications. The proposed dedication (or whatever) is a speedy and pragmatic method of achieving our purposes and resolving a number of issues in that area. The cost of the work involved will be met by the Coast-to-Coast Path project.

46. **Compared –** We have **compared** our casework completion rates with other authorities, and our rate of processing these sorts of orders is roughly comparable. The diversion will align the definitive map and situation on the ground and will improve our 'ease-of-use' performance indicator if the path is selected for survey in the future. This proposal will help us reduce the number of outstanding cases of this nature.

47. **Consulted –** We have **consulted** user bodies, the Local Access Forum, and other interested parties as part of the process, their responses and our comments are above.

48. **Compete –** Processing public path orders is not a **competitive** procedure. Cumberland Council can also process orders, but we are more closely connected with the day-to-day management of the network and so can act more effectively.

Finance considerations

49. The standard cost for public path orders are currently £3,150, and two adverts in the Whitehaven News costing around £520 +VAT each – so a total of £1040+VAT. The proposal is in the interests of the public, and so it is appropriate that these costs are met by us. The costs will be recouped from the overall Coast-to-Coast Path budget – so will be cost-free for the LDNPA.

50. If objections are received, the matter will most likely be forwarded to the Secretary of State, who are likely to deal with the matter through the written representations process. This is 'cost' free – other than staff time and minor amounts of paperwork.

Risk

51. There is a risk that the orders may be objected to. This risk has been mitigated as far as possible through consultation. There is a history of non-substantive objections being made to public path orders in the western lakes, and if one is received then the matter may be forwarded to the Secretary of State for confirmation, or referred to our Rights of Way Committee, depending upon the exact nature of the objection.

Legal considerations

52. The orders will be made under sections 26, 118 & 119 of the Highways Act 1980 and we are able to make orders under theses section by virtue of schedule 9, paragraph 11 of the Environment Act 1995. The modification element will be made under section 53A(2) of the Wildlife & Countryside Act 1981, and we have powers to do such orders through our Agency Agreement with Cumberland Council. The action strikes a reasonable balance between private and public rights.

Human resources

53. The work involved in this proposal is approximately 60 hours from members of the Ranger teams, and one hour from a member of Legal Services. The work involved is all part of our day-to-day duties, and over half of it has already been undertaken.

54. If objections are received, the matter will most likely be forwarded to the Secretary of State, who are likely to deal with the matter through the written representations process. The staff time in preparing the paperwork and dealing with the various exchanges can be time-consuming, and is likely to be around the same again – something in the region of 60 hours or so.

Diversity implications

55. No specific implications have been identified.

Sustainability

56. No specific implications have been identified.

Summary

57. The proposals will benefit the public. All of those who responded to the consultation are in agreement with the proposals.

58. I recommend that we make the necessary diversion, creation and extinguishment orders to bring this into effect.

Background papers	Case file reference: 1412.407.16
Author / Post	Nick Thorne, Senior Rights of Way Officer
Responsible Director	Hanna Latty, Sustainable Development
Date written	29 September 2026

Authorised by:



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Jack Holmes, Ranger Team Leader (North)

Date 15/10/2026……

Annex 1: Our Policies on Changes to the Public Path Network

Policies on changing the public path network have been developed and approved by the Authority. These are listed below, and reference is made to them, where appropriate, in the discussion part of the paper.

- There will be a presumption in favour of preserving the historical integrity of the network.
- The concerns of those managing land, especially for agriculture and forestry, will be recognised where legitimate operations may affect the public's enjoyment of or safety in using a public right of way. Under schedule 6 of the Countryside & Rights of Way Act 2000, we also have to look at the impact of all changes on agriculture and forestry.
- There will be a presumption against re-alignment of cross-field paths onto routes following field edge boundaries.
- There will be a presumption against any reduction in the amount of public access in the National Park.
- Where the route in use at present differs from the definitive line, there will be a presumption in favour of restoring the original route before considering a legal diversion.
- The future maintenance and management implications of any proposed change to the network will be considered.
- Changes should, if possible enhance public benefit through enabling the better enjoyment of the cultural landscape and nature conservation interest and should not reduce the ability of the public to discover any of the special qualities / features of the National Park.